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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,984	12/12/2000	Junichiro Shibata	Q62244	3673
7590 01/25/2005 SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037			EXAMINER HO, TUAN V	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/733,984

Applicant(s)

SHIBATA ET AL.

Examiner

Tuan V Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46, 48 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-18, 21-29, 34-41, 44-46, 48 and 50 is/are rejected.
- 7) ☒ Claim(s) 7-9, 19, 20, 30-33, 42 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

1. Applicant's arguments filed 8/24/04 have been fully considered but they are not persuasive.

With regard to claim 50, Applicant argues that Kamamoto does not disclose switch 38 sensing more than two positions (page 21 of the remark). In response to the arguments, the examiner notes that switch 38 is used to control turning on or off power of LCD 7 and EVF 6; in addition, in opening position of LCD 7, switch 38 is used to turn on speaker 41 in reproduction mode (col. 11, lines 37-47). Therefore, switch 38 can control at least three positional relationships of the flip LCD 7 and camera body.

The Declaration filed on 8/24/04 under 37 CFR 1.131 has been considered but is ineffective to overcome the Mack reference (US 6,510,325).

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Mack reference to either a constructive reduction to practice or an actual reduction to practice. The examiner presumes the filing date of the application, that is 12/12/2000 and priority date is 12/19/1999. There is no evidence provided by the Applicants in the critical period. MPEP §2138.06 states that "the critical period for diligence for a first conceiver but second reducer begins at the time of conception of the first

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conceiver but just prior to the entry in the field of the party who was first to reduce to practice and continues until the first conceiver reduces to practice," and "an applicant must account for entire period during which diligence is required." Therefore, the Mack reference is properly cited as a prior art reference.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 50 is rejected under 35 U.S.C. 102(b) as being anticipated by Kamamoto et al (US 5,982,429).

With regard to claim 50, Kamamoto et al discloses in Fig. 2, a portable video camera that comprises the portable terminal (display device 7 of camera 1 is used as a display terminal to display a playback image from a tape, col. 4, lines 60-65), main unit (camera body 2), flip unit (display device 7 is pivotally mounted through closing device 12 including shaft 16, col. 6, lines 3, Figs. 6-11), monitor screen (LCD screen 7), axial unit

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(vertical shaft 16), and flip unit is connected rotatably by an axis which is crossed perpendicular with the axial unit (display 7 is rotatably connected with a tilt sleeve 30; where the display 7 is rotated around a horizontal axis of sleeve 30 as shown in Figs. 5 and 6; noted that the axis of sleeve 30 is crossed perpendicular with the shaft 16), plurality of functions for performing (LCD 7 can be rotated in different positions as shown in Fig. 5), state sensor (pressure piece 38a), and means for executing selectively functions to at least positional relationships (switch 38 is used to control turning on or off power of LCD 7 and EVF 6 and speaker 41 in reproduction mode, col. 11, lines 37-47).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-17, 21-22, 24-29, 34-41, 44-45 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mack

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et al (US 6,510,325) in view of Isashi cited by Applicants (US 5,719,799).

With regard to claim 1, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the main unit (base segment 8 including lower segment 10, col. 4, line 18), flip unit (upper segment 9 includes active matrix screen 20, col. 6, line 41; where main segment 8 and upper segment 9 is connected by a hinge 13, col. 6, line 61), and second photographic lens provided at a predetermined position on the flip unit (second camera 21 is located in the upper segment 9; where camera 21 is inherently included a photographic lens); except for a first photographic lens housed in the axial unit in the longitudinal direction.

Mack et al does not explicitly disclose any photographic lens that is housed in the upper hinge. However, Isashi teaches using a portable information apparatus in Fig. 1, that comprises photographing unit 7a including a photographic optical system, which is housed in hinge member 6 in a longitudinal direction. As a result of the arrangement, a user is easily to hold the apparatus while observing a displayed picture on a LCD.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the video camera 7a of Isashi in the upper hinge of

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Mack portable telephone, so as to obtain a portable telephone having a second photographic camera housed in an axial unit in the longitudinal direction. That is because the incorporation of the Isashi camera in the Mack telephone would allow a user to easily to hold the camera while observing a displayed picture.

With regard to claim 2, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the flip unit having a second photographic lens (camera 7a is located on the side of monitor 20 as shown in Fig. 3B), axial unit (hinge 13 has a structure of closing both segments and making inside surface of upper segment into contact to the one of main segment).

With regard to claim 3, Mack et al discloses in view of Isashi discloses the same subject matter as discussed with respect to claim 2, except for the axial unit state sensor and means for selecting and executing each function predetermined based on the angle of the flip unit and the main unit.

However, Furthermore, Isashi discloses in Figs. 8A-8D angle detectors that are used to detect at least three angles between first and second members 3 and 5; where upon angle detections, a CPU of the Isashi device, col. 15, lines 18 executes various processing operations of photographic mode by using display unit

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2, col. 25, lines 60-67, col. 26, lines 16-50, and col. 27, lines 28-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the detectors of Isashi in the hinge 13 of the camera system of Mack et al in view of Isashi so as to have a portable telephone that comprises an axial unit state sensor and means for selecting and executing each function based on the angle of flip unit and main unit.

With regard to claim 4, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the microphone (microphone 3 is located inside segment 10 of main segment, col. 4, lines 63-64), speaker (speaker 4), communication unit and means for putting a communication function through wireless communication line into an executable state (cellular telephone of Mack in view of Isashi inherently includes circuit elements that are used to provide sound communication with other telephone through a wireless communication, col.4, lines 48-56), and when the inside surface of the main unit and the inside surface of the flip unit are opened in the same direction (in order to use the system as a video phone, col. 6, lines 45-60, the cellular phone of Mack et al in view Isashi must have the inside of surface 8 of main segment and surface 9 of upper

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segment are face the same direction so a user can use camera 21 and touch pad 43).

With regard to claim 5, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the surface the inside surface of the main unit and the surface having the microphone on the main unit and the outside of the flip unit are opened in the same direction (Fig. 3A shows the microphone of main segment and outside surface of upper segment are opened the same direction so as to use the system as a conventional telephone, col. 4, lines 29-34).

With regard to claim 6, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the surface having the microphone on the main unit and the inside surface of the flip unit are opened in the same direction (main segment includes microphone 3 and inside surface of the upper segment are opened the same direction as shown in Fig. 3B).

With regard to claims 11, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the storing means (Mack et al inherently includes a storing device such as a digital memory since the system can take video images and receive video image so as to operate as a video phone or teleconferencing; noted that the transmitting or receiving speed

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of the system is not the same as the image processing speed of the camera).

With regard to claim 12, Furthermore, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the digital memory as discussed in claim 11.

With regard to claim 13, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the means for converting a moving image into electronic data as digital video image data (the system of Mack et al in view Isashi inherently converts the video images into digital data since the transmission of a cellular phone is in digital form).

With regard to claim 14, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises camera 7 can transmit image data and sound via a wire communication system so as to perform video conferencing, col. 3, line 3.

With regard to claim 15, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the microphone (main segment 8 includes microphone 3), speaker (speaker 4 of upper segment 9).

With regard to claim 16, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the means for displaying the image (an operation control unit is inherently included in the Mack and Isashi system since it is used to

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provide image displays and sound and to convert sound into digital signal so as to transmit to other side by a communication circuit).

With regard to claim 17, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the information processing unit (a processing circuit is inherently in the system of Mack et al to processing input information and instruction from key pad 2), monitor screen (touch pad 43), and means for receiving input from the touch pad (col. 6, lines 53-60).

With regard to claim 18, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the input pen (touch pad 43 is used as a pointing device for display 20; thus, there must be an input pen used as a pointing device, col. 6, lines 53-60).

With regard to claims 21 and 22, Mack et al discloses in Figs. 3A and 3B a portable telephone unit that comprises the input/output unit (an antenna connected to an input/output circuit inherently communicates with other cellular phone via bi-directional data transfer so as to operate as a video conferencing system, col. 3, line 3 and col. 4, line 39).

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Claims 24-29, 34-40 and 44-45 correspond to claims 1-6, 11-17 and 21-22 and are analyzed the same as discussed in claims 1-6, 11-17 and 21-22.

Claim 50 recites what was discussed with respect to claim 3; wherein Figs. 8A to 8D show at least three angles that are detected.

4. Claims 23, 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mack et al (US 6,510,325) in view of Isashi cited by Applicants (US 5,719,799) further in view of Kamamoto et al (US 5,982,429).

With regard to claims 23 and 46, Mack et al in view of Isashi discloses the same subject matter as discussed with respect to claims 1 and 24; furthermore, Mack et al discloses the axial unit connects a central portion of one side of the flip unit to a central portion of one side of the main unit in a movable way (hinge 13 of Mack et al connects a central portion of upper segment 9 and the one of segment 8 so as the upper and the lower can be opened or closed), except for the rotating axis for connecting the flip unit in a way of freely rotating across around the axis.

Kamamoto et al teaches using an opening/closing device 12; where display 7 is connected to device 12 through an axis of a

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sleeve 30 connecting a main body 2 of a camera; Noted that display can be freely rotated around an axis of sleeve 30, col. 5, lines 13-15 and col. 7, lines 50+).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the camera system of Mack et al in view of Isashi so as to obtain display 9 which is freely rotated across around the hinge 13. That is because the modification of Mack et al in view of Isashi would allow a user to rotate the upper segment 9 freely around the hinge 13 and thereby to extend view angles of camera 21.

Claim 48 recites what was discussed with respect to claim 23.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 7-10, 19-20, 30-33 and 42-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

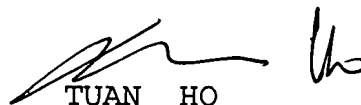
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN HO whose telephone number is (703) 305-4943. The examiner can normally be reached on Mon-Fri from 7AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen, can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.


TUAN HO

Primary Examiner

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